



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,162	03/06/2002	Sherrene D. Kevan	GOW 0091 PA	9230

7590 07/12/2005

Killworth, Gottman, Hagan & Schaeff, L.L.P.  
Suite 500  
One Dayton Centre  
Dayton, OH 45402-2023

EXAMINER
----------

ORTIZ, BELIX M

ART UNIT	PAPER NUMBER
----------	--------------

2164

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/092,162

Applicant(s)

KEVAN ET AL.

Examiner

Belix M. Ortiz

Art Unit

2164

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-13.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).  
13. ☐ Other: \_\_\_\_\_.

  
**CHARLES RONES**  
**PRIMARY EXAMINER**

20

Continuation of 11. does NOT place the application in condition for allowance because:

In response to applicants' arguments that "Levitt, does not teach a portable handheld device operable to play multimedia data files or present multimedia content to the end user", the arguments have been fully considered but are not deemed persuasive, because Levitt, teaches a handheld system such as PDA that enable a user to enact and review media choices through wireless control of media-playing device by the handheld device, and to present media directories on its display (see Levitt., abstract).

In response to applicants' arguments that "Levitt, fail to teach a portable handheld device with a display means operable to display digital images or a speaker operable to audibly reproduce a digital audio data file", the arguments have been fully considered but are not deemed persuasive, because Levitt, teaches "A custom handheld system, or system to adapt a personal mobile computing device, such as a handheld Personal Digital Assistant (PDA) or cellular telephone, to enable a user to enact and review media choices through wireless control of media-playing devices by the handheld device, and to present media directories on its display", (see Levitt, abstract).

"Returning to FIG. 1, a typical room or home will include various entertainment Devices 24 as illustrated in FIG. 1, including external sources (such as AM/FM radio and broadcast television, whether over-the-air or via cable or satellite, or even from the Internet) as well as internal sources (pre-recorded songs, movies and other audio/video "programs" stored on CDs, DVDs, VCRs, digital video recorders or DVRs, etc). Other information (audio, video, data, control, etc) could be stored (e.g., on a PC or other consumer device, or on a local/Internet server) and made accessible for audio and/or video playback (whether through a standard TV monitor and speakers or other equipment) throughout the home, or even at a remote location", (see Levitt, paragraph 69).

"In general, very low bandwidth is required to select among program choices, as compared to transmitting graphic, audio, or video media", (see Levitt, paragraph 134)